

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Toshihiko Munetsugu et al.
Appln. No. : 09/467,231
Filed : December 20, 1999
Title : DATA PROCESSING DEVICE AND METHOD FOR SELECTING
MEDIA SEGMENTS ON THE BASIS OF A SCORE

Conf. No. : 2093
TC/A.U. : 2176
Examiner : Maikhahan Nguyen

Customer No. : 00116
Docket No. : NGB-32161

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUBSTITUTE APPELLANT'S BRIEF

Sir:

This brief is intended to replace the brief previously filed on December 17, 2007 (along with the subsequently filed supplements replacing the summary sections), for an ex parte appeal from the decision of the Examiner in the Final Rejection dated May 15, 2007 in the above-identified application, rejecting all claims in the application. The fee has already been paid for this brief.

REAL PARTY IN INTEREST

The application is assigned to Matsushita Electric Industrial Co., LTD., of Japan.

RELATED APPEALS AND INTERFERENCES

Application serial number 10/733,981, a child of this application, is currently being appealed. A notice of appeal was filed on June 19, 2007, and an appeal brief was filed in that case. No decision has been rendered in that appeal.

STATUS of CLAIMS

Claims 1-82 have been canceled, and claims 83 through 104 are pending in the application. Claims 83-100 have been finally rejected under 35 U.S.C. §103(a). All claims have further been rejected for non-statutory double patenting with respect to U.S. Patent No. 7,134,074 (also assigned to Matsushita), but claims 101-104 have been indicated as being allowable, but subject to the non-statutory double patenting rejection. The rejection of all of these claims is appealed. The claims are attached herewith as Appendix A. All references to the claims contained herein will correspond to the claims as shown in this appendix.

STATUS of AMENDMENTS

An amendment dated July 11, 2007 was filed since the final rejection, but the Examiner has refused to enter the amendment. Primarily, the claims were amended to make the claim language consistent with the language of the specification, as the term “content description data”

was mistakenly used in the rejected claims, in place of “context description data” which is used in the specification. Nowhere is the term “content description data” used in the specification.

Furthermore, it is applicant’s contention that changing “content” to “context” in the claim language does not raise any new issues because regardless of which phrase is used, the phrase is defined in the claims to include “importance attributes having a value representing a degree of contextual importance of said corresponding one of said plurality of segments”, and thus the issue of context has already been raised. Furthermore, because the phrase is further defined by the claim, it is not particularly relevant what the data is named, as that thereby becomes a relatively arbitrary designation. Finally, the correct term is used in the claims indicated as being allowable, and thus the Examiner has already searched this term and considered its impact. This was a case where a clear error was not detected by either applicant’s representative or the Examiner. Nevertheless, the arguments made herein using the language of the current claims in this case still apply regardless of whether the phrase “content description data” or “context description data” are used. The claims annexed to this Appeal Brief contain the claims as they existed prior to the non-entered amendment.

**SUMMARY OF THE CLAIMED SUBJECT MATTER (as corrected in
the supplement filed on June 9, 2008)**

The invention provided by the subject matter found in independent claims 83, 92, and 101 relates to a data processing apparatus for processing media content comprised of a plurality of scenes, as described in the clean copy of the replacement specification. In essence, the invention provides a new way of describing media content, through the use of context description data (or “content description data” as used in the rejected claims) that provides a contextual descrip-

tion of the media content (such as a video, for example). This description can then be used to select various scenes of the media content based on a user input, the scenes chosen based on importance related to a contextual topic as chosen by the user (see, e.g., the Summary of the Invention section of the specification).

Figure 1 (of the replacement drawings) shows a simplified view of a method performed by the apparatus, according to the invention. A simple description of this process is that, via a selection step 101, selected segments are determined according to context (or “content”) description data that is input into the apparatus (see the second paragraph of page 29, lines 7-15 of the clean version of the replacement specification for a description of the method shown in Figure 1). The selected segments are then used by the apparatus, as shown in Figure 5, to select desired scenes of the media content, (e.g., video) that is input into the apparatus (into a demultiplex means 601). The media content is split into audio data (input into an audio skimming means 603) and video data (input to a video skimming means 602). The selection segments are then utilized by the apparatus (e.g., the skimming means 602, 603) for use in outputting the desired audio and video data based on the degree of importance of the scenes (see the last paragraph of page 33 of the specification, to the end of the paragraph, page 33 line 17 to page 34, line 8).

The specification makes clear that “context description data” (or “content description data”) is different than the “media content” itself. On page 17 of the specification, second paragraph (lines 8-18), media content and context (or “content”) description data are differentiated. Media content is described as corresponding to *video data and/or audio data*, whereas context (or “content”) description data is described as the *configuration* of respective video data sets and/or audio data sets, and that video/audio selection means selects a scene by reference to the context (or “content”) description data, and that an extraction means then extracts the selected

video or audio scene. Generally on pages 29-31, context (or “content”) description data is described in more detail, as discussed below.

An example of the context (or “content”) description data is shown in Figure 2 in a hierarchical format, and is described on page 29, last paragraph, to page 31 (page 29, line 24 to page 31, line 7). Figures 19, 29, 36, 65, and 68 also show additional embodiments of this data, all of which are described in the specification. In this discussion, it is made clear that the context (or “content”) description data is data for *describing* the media content, such as the *context* of various scenes of the media content, but it is clear that this context (or “content”) description data is itself *not* the media content. For example, see the last paragraph of page 30 (lines 22-25), where it is stated that the context (or “content”) description data can be used to *describe* a movie story hierarchically, according to the movie, chapters, sections, and paragraphs. Similarly, a video of a baseball game could be *described* by using context (or “content”) description data by breaking down the game into innings, half-innings, at-bats, and individual pitches, for example, to describe the game (see end of page 30, line 25 to top of page 31, line 7). Thus, it is clear from the specification that context (or “content”) description data is differentiated from the media content that it describes.

On page 31, the example context (or “content”) description data of Figure 2 is described as potentially being expressed in XML language, an example which is provided on Program03.xml of the sample programs filed on a CD ROM in this case, and described on page 31. Such an XML file can be executed in a browser application on a computer. This example of context (or “content”) description data further clarifies that this data is not media content, but data that is provided to describe some media content. Program03.xml is further described as being an example of context (or “content”) description data that has a score related to a particular

context of each scene (see first paragraph on page 32, line 3 continuing on page 33 to line 4). The XML ASCII file for Program03.xml is provided in the *Evidentiary Appendix*, attached to this brief. This file can be loaded into a standard browser, such as Microsoft's Internet Explorer, where it can be executed. This data provides the start and end times of the associated scenes, and is utilized in the process described by the flow chart of Figure 4 (id.).

Figure 20 shows an input means (e.g., interface means 2401) for inputting data from database 1805 and a selection means (item 1801) operable to input context (or "content") description data (see Figure 19, discussed on page 50, line 12 to page 51, line 16) for performing the selection step of Figure 17 (see page 51, line 17 to page 54, line 8), which provides support for the "input means" and "selection means" of claim 101. The context (or "content") description data can include a plurality of segment elements, such as shown in Figure 19, each for describing one of said plurality of scenes of media content (see page 50, line 10 to page 51, line 16). The context (or "content") description data also includes a plurality of importance attributes each associated with a corresponding one of the plurality of segment elements. This is shown by example in the priority elements of Figure 19, which are assigned a value relating to the degree of importance of the scene (id.), with these importance attributes having a value (e.g., the "score") representing a degree of contextual importance of the corresponding scenes (see, e.g. pages 31-33, as referenced above; see also first full paragraph on page 48, lines 14-19). Data of the segments related to the scenes (e.g., scene start and stop times, see page 62, lines 3-18) are then output based on the one or more importance attributes (see pages 48-49 and see "priority" of Fig. 29, discussed on page 61, lines 7-23). In this manner, context (or "content") description data can be used to determine and select scenes having a high degree of contextual importance related to a

user request (e.g., see Fig. 43 and pages 86-88 of the specification for more detail about user requests).

The Evidentiary appendix also includes an example of the context (or “content”) description data for the above described process (in Program07.xml), along with a resulting sample output (Program07.out) showing the start/stop times for the corresponding scenes.

In particular, **Claim 83** recites a **data processing apparatus** for processing media content comprised of a plurality of scenes, with the apparatus comprising the following elements, mapped to the specification and drawings:

an input unit operable to input content (or “context”) description data (see, e.g., selection means discussed on page 15, last paragraph—line 20, continuing to top of page 16, line 3; See also Fig. 20, interface means 2401 connected to database 1805, and selection means 1801, discussed on the first full paragraph of page 52, line 6 to line 4 of page 53) including a plurality of segments (see, e.g., Figs 2 discussed on third paragraph of page 29, line 16 to second last paragraph of page 30, line 8) each for describing one of said plurality of scenes of media content (id.), said content (or “context”) description data also including a plurality of importance attributes (see e.g., “score” discussed on last two paragraphs of page 5, lines 20-24 and page 32, lines 3-7; and “priority: shown in Figures 2 and 3, discussed on last paragraph of page 29 line 24 to top of page 30, line 3 and the middle of the first paragraph on page 32 lines 10-23) each associated with a corresponding one of said plurality of segments (id.), said importance attributes having a value representing a degree of contextual importance of said corresponding one of said plurality of segments (id.); and

an output unit operable to output at least one of said segments based on at least one of said importance attributes (see, e.g., Fig. 20, demultiplex means 2402, video skimming means 2403, and audio skimming means 2404, and first paragraph of page 52, line 6, continuing to page 54, line 8, discussing Fig. 21).

Furthermore, **Claim 92** recites a **data processing method** for processing media content comprised of a plurality of scenes, with the method comprising the following steps mapped to the specification and drawings:

inputting content (or “context”) description data (see e.g., selection step 101 of Figure 1, discussed on page 29, lines 7-23) including a plurality of segments (see, e.g., Figs 2 discussed on third paragraph of page 29, line 16 to page 31, line 7) each for describing one of said plurality of scenes of media content (id.), said content (or “context”) description data also including a plurality of importance attributes (see e.g., “score” discussed on last two paragraphs of page 5, lines 20-24 and page 32, lines 3-7; and “priority: shown in Figures 2 and 3, discussed on last paragraph of page 29 line 24 to top of page 30, line 3 and the middle of the first paragraph on page 32 lines 10-23) each associated with a corresponding one of said plurality of segments (id.), said plurality of importance attributes having a value representing a degree of contextual importance of said corresponding one of said plurality of segments (id.); and

outputting at least one of said segments based on at least one of said importance attributes (id., see also Fig. 1, extraction step 102).

Additionally, **Claim 101** recites a data processing apparatus comprising the following elements, mapped to the specification and drawings:

input means for inputting (see, e.g., interface means 2401 connected to database 1805, discussed on the first full paragraph of page 52, line 6 to line 4 of page 53) hierarchically arranged content (or “context”) description data (see examples of Figs. 2, 3, 15, 18-19, 29, 36, and 65 and accompanying description, including page 60, line 25 to page 63, line 3) that describes a plurality of scenes of the media contents of one or more media files (id., particularly second paragraph of page 62, line 19 to top of page 63, line 3), said content (or “context”) description data including:

a plurality of segment elements (see, e.g., fig. 29 discussed at page 60, line 25 to page 63, line 3) each for describing one of said plurality of scenes (id.),

a plurality of section elements (see, e.g., fig. 29 discussed at page 61, line 7 to page 62, line 2) each having either one or more of said plurality of section elements as children, or having one or more of said plurality of segment elements as children (id.),

a plurality of context attributes (see “keyword” of Fig. 29, discussed on page 61, lines 7-23) each having a value for describing a corresponding context of said media content (id.) and each being an attribute associated with one or more of said segment elements (id.) and including at least one keyword for describing the contents of the scenes described by the associated one or more of said segment elements (id. plus page 62, lines 3-7),

a plurality of importance attributes (see “priority” of Fig. 29, discussed on page 61, lines 7-23) each associated with a corresponding one of said segment elements (id. plus page 62, lines 3-7) and having a value representing a degree of importance of the scene corresponding to said corresponding segment element in re-

lation to one context attribute that is also associated with corresponding segment element (id.) , and

 a plurality of time attributes (page 62, lines 3-18) each associated with one of said plurality of segments (id.) for determining a start time and one of an end time (id.) and a duration of said one of said plurality of segments in relation to the media content (page 62, lines 12-16);

and

selection means (item 1801 of Fig. 20, discussed on the first full paragraph of page 52, line 6 to line 4 of page 53) for selecting one or more of said segment elements (id.) based on an analysis of one or more of said context attributes and the associated importance attributes (page 62, line 20 to page 64, line 14), wherein

 one or more of said plurality of scenes is selected based on the selected segment elements and the segment element(s)' start time attribute(s) and the end time or duration attribute(s) (id., particular page 64, lines 10-14).

In this manner, the invention as defined in the claims provides a new and useful method and apparatus for selecting, playing back, delivering a synopsis, highlighting a scene, and/or selecting a scene desired by the audience at the time of playback of the media content (see first paragraph of the Summary section of the specification).

GROUNDS FOR REJECTION TO BE REVIEWED ON APPEAL

The grounds for rejection to be reviewed on appeal are as follows:

Issue 1: Whether Claims 83-84, 86-93, and 95-100 are patentable under 35 U.S.C. §103(a) over Smith *et al.* (“Video Skimming and Characterization through the Combination of Image

and Language Understanding Techniques", June 1997, pp. 775-781) and whether claims 85 and 94 are patentable under 35 U.S.C. §103(a) over Smith *et al.* in view of Yeo *et al.* (U.S. Pat. No. 5,821,945).

The primary issue is whether Smith *et al.* (hereinafter "Smith"), which teaches an experimental method of video skimming and characterization through the combination of image and language understanding techniques, renders obvious a data processing apparatus using content (or "context") description data to describe media content, as recited in the claims.

Issue 2: Whether Claims 83-104 are properly rejected for non-statutory obviousness-type double patenting over claims 1-13 of U.S. Pat. No. 7,134,074.

The issue is whether the Examiner has made a *prima facie* case for non-statutory obviousness-type double patenting in light of U.S. Pat. No. 7,134,074, which is a CIP child of the instant application.

ARGUMENT

Issue 1: Claims 83-84, 86-93, and 95-100 are patentable under 35 U.S.C. §103(a) over Smith *et al.* ("Video Skimming and Characterization through the Combination of Image and Language Understanding Techniques", June 1997, pp. 775-781) and claims 85 and 94 are patentable under 35 U.S.C. §103(a) over Smith *et al.* in view of Yeo *et al.* (U.S. Pat. No. 5,821,945)

In the Office action of May 15, 2007, claims 83-84, 86-93, and 95-100 were rejected under 35 U.S.C. §103(a) as being unpatentable over Smith *et al.* (Video Skimming and Characterization through the Combination of Image and Language Understanding Techniques). Claims 85 and 94 were rejected as above in further view of Yeo *et al.* (U.S. 5,821,945).

However, the invention as claimed is not taught by the cited prior art references, either individually or in combination. Accordingly, the invention is patentable, over the references, as claimed.

Inventions are patentable if novel and nonobvious. 35 U.S.C. §102 and 35 U.S.C. §103. The burden is on the Patent Examiner to establish a *prima facie* case of unpatentability by presenting prior art references teaching every element of the claim. M.P.E.P. §2142; M.P.E.P. §2142, ¶3; *In re Fritch*, 23 U.S.P.Q.2d 1781, 1783 (Fed.Cir. 1992); *In re Piasecki*, 223 U.S.P.Q. 785, 787 (Fed.Cir. 1984). The Examiner has failed to establish a *prima facie* case of unpatentability. None of the cited references disclose or suggest all of the claimed features of the invention, alone or in combination, and the Examiner has failed to show that such missing claimed features would be obvious to one skilled in the art to provide to the prior art solutions.

The Examiner is required to support an obviousness rejection with factual analysis in order to establish a *prima facie* case. See *Ex parte Blanc*, 13 USPQ2d 1383 (Bd. Pat. App. & Inter. 1989); see also M.P.E.P. §2142, ¶5. Inventions are not patentable if the differences between the prior art and the claimed invention would be *obvious* to one skilled in the art. See *KSR Int'l Co. v. Teleflex*, 550 U.S. ____ (2007). The Examiner is required to ascertain the *level of skill* in the art, and then *factually analyze* why one skilled in the art, starting with the problem to be solved by the inventor, given the cited references, would have found it obvious to obtain the claimed invention. See *KSR Int'l Co. v. Teleflex*, 550 U.S. ____ (2007) (first paragraph of page 2 of the published opinion, citing *Graham .v John Deere Co. of Kansas City*, 383 U.S. 1, 17-18 (1966).

The Examiner is required to support an obviousness rejection with reasonable specificity to support a *prima facie* case of obviousness. See *Ex parte Blanc*, 13 USPQ2d 1383 (Bd. Pat. App. & Inter. 1989); see also M.P.E.P. §2142, ¶5. The question to be asked is, whether the per-

son of skill in the art, starting with the cited references would have found it obvious to make the modifications suggested by the Examiner (see *KSR Int'l Co. v. Teleflex*, 550 U.S. ____ (2007) (first paragraph of page 21 of the published opinion).

The Examiner, however, has failed to even minimally explain how the cited art shows all of the elements of the claimed invention, or why one skilled in the art would make the suggested modifications. The Examiner's arguments are weak on any factual support, and are instead nothing more than a series of conclusory statements. Consequently, because the examiner has not met the burden of the *prima facie* case of obviousness, the applicant is not required to present evidence of non-obviousness. M.P.E.P. §2142, ¶1. Therefore, a rejections based on 35 U.S.C. §103(a) are improper and the claims, as written, should be patentable over the cited references, for the reasons discussed in more detail below.

A. Smith Does Not Teach “content [or “context”] description data including a plurality of segments each for describing one of said plurality of scenes of media content”.

Independent claim 83 of the invention, directed toward a “data processing apparatus for processing media content comprised of a plurality of scenes” recites comprising an “input unit operable to input content (or “context”) description data including a plurality of segments each for describing one of said plurality of scenes of media content”. Claim 92, directed toward a “data processing method for processing media content comprised of a plurality of scenes” includes the step of “inputting content [or “context”] description data including a plurality of segments each for describing one of said plurality of scenes of media content”. Smith fails to teach any such “content description data” (or “context description data”).

Applicant would first like to point out that it is clear that the Examiner is confusing the claimed **content (or “context”) description data** with the media content itself (such as the video of Smith), and that her arguments all apply to the media content itself, not to any context (or “content”) description data describing the media content. The claims clearly define the content (or “context”) description data as being *different* than media content, which the references do not in any way teach or suggest. Thus, the Examiner’s arguments do not apply to the “content [or “context”] description data” as defined by the claims and the specification. The Examiner has not pointed to any teaching that is in any way similar to the context description data of the claimed invention.

As discussed above, the Examiner’s arguments in the various Office actions shows that she has consistently confused *context* (or “content”) *description data* with the actual *media content* (e.g., video and/or audio files) of the cited references. In contrast, as described in the specification and briefly discussed in the *Summary of the Claimed Subject Matter* section herein, the claimed “context [or “content”] description data” is specifically “for **describing** one of a plurality of **scenes** of media content” (emphasis added). The claims clearly specify both “media content” as being “comprised of a plurality of scenes” and differently specify “context [or “content”] description data” as including “a plurality of segments each for *describing* one of said plurality of scenes of media content” (emphasis added). This makes it clear that “context [or “content”] description data” is defined differently from “media content” and thus is a different entity. Accordingly, the Examiner is incorrect in confusing or equating the two.

Although the Examiner argues that Smith teaches a “method for processing media content (e.g., video) comprised of a plurality of scenes” (see bottom of page 3 of the outstanding Office action of May 15, 2007), the Examiner fails to particularly point to where Smith supposedly

teaches the “context [or “content”] description data” as defined by the claims. The closest she comes in attempting to show such a teaching is merely through implication, stating that “text in the video provides significant information as to content of a scene” (see top of page 6 of the outstanding Office action). She never points to any teaching of Smith being *directly* analogous to the content (or “context”) description data of the claims, but instead appears to be relying on inherency or implication.

However, even if “text” is found in the video of Smith (although the Examiner fails to cite any section where such a teaching is found in the reference), any such text would be part of the “media content”, because it would be part of the *video* (i.e., “text *in* the video”, emphasis added). Furthermore, the Examiner gives no examples of where “text in the video” actually “describes” the media content, as required by the claim language. Her “text” would appear to be a *part* of the media content, if it existed at all. For example, if she is attempting to refer to a feature such as *closed captioning*, such text is merely a *transcription* of the audio of the video, and does not necessarily “describe” the media content, but merely substitutes for the audio track (e.g., replaces a portion of the media content, thus becoming a part of the media content itself). Thus, the Examiner fails to show how the can media content “describe” itself. This makes no logical sense considering the definitions found in the claim language and specification, and the Examiner has pointed out no teaching in the prior art contradicting such definitions. In any case, the Examiner cannot argue that the media content is itself the context (or “content”) description data, because that would not be consistent with the claim language or the specification, which clearly differentiates the two as being distinct and differently defined, and Phillips makes clear that the primary source for the definitions of terms in a claim is the *specification*, which should

be looked to first to clarify any ambiguities. *Phillips v. AWH Corp.* 415 F.3d 1303 (Fed. Cir. en banc, 2005).

Furthermore, the use of “content [or “context”] description data” with the Smith method is not logical or useful, as the purpose of Smith is to provide a shortened skimmed video which provides a short synopsis of the original with little loss of data. There is no need by Smith for any context (or “content”) description data as that term is defined by the claims, because Smith teaches using a shortened form of the video itself to describe the video. Smith is merely investigating a way to develop a skimmed video that does not lose any important features, whereas the instant invention is concerned only with a particular *specific context*, not *all* of the important features. The invention is solving a different problem than Smith. Thus, Smith fails to provide the feature of data for describing *each* of the scenes of the video content, as the Smith result is merely a subset of the original video encompassing all important features in shortened a form, and thus no *content* (or *context*) description data is necessary, desirable, or even useful. Accordingly, Smith fails to explicitly or implicitly suggest the claimed content (or “context”) description data, and the Examiner has not shown any such teaching or explanation of how providing such data would be an improvement obvious to one skilled in the art.

Consequently, claims 83 and 92 are patentable over Smith, as are claims 84, 86-91, 93, and 95-100, because no teaching of providing “content [or “context”] description data” defined as “including a plurality of segments each for describing one of said plurality of scenes of media content “ by the cited claim language, has been provided. In the rejection of claims 85 and 94, the Examiner cites Yeo only for teaching data that is hierarchically arranged, and Yeo clearly fails to overcome the shortcomings of Smith discussed above, and thus claims 85 and 94 are also patentable over the combination of references for the same reasons discussed above.

B. Smith Does Not Teach any “content description data including a plurality of importance attributes each associated with a corresponding one of said plurality of segments, said importance attributes having a value representing a degree of contextual importance of said corresponding one of said plurality of segments”.

Claim 83 recites a “data processing apparatus for processing media content comprised of a plurality of scenes, said apparatus comprising...an input unit operable to input content description data including...a *plurality of importance attributes* each associated with a corresponding one of said plurality of segments, said importance attributes having a *value* representing a *degree of contextual importance* of said corresponding one of said plurality of segments” (emphasis added). Similarly, claim 92 recites a “data processing method for processing media content comprised of a plurality of scenes, said method comprising the [step] of: inputting content description data including...a *plurality of importance attributes* each associated with a corresponding one of said plurality of segments, said plurality of importance attributes having a *value* representing a *degree of contextual importance* of said corresponding one of said plurality of segments” (emphasis added). Smith fails to teach any “content [or “context”] description data” that includes a “plurality of importance attributes” defined in the manner specified by the claim language cited above, and the Examiner further fails to show why such a feature would be an improvement obvious to one skilled in the art.

The Examiner admits that Smith does not “specifically teach ‘a value representing a degree of contextual importance’”, but argues that Smiths teaching that ““with prioritized video frames from each scene, we not have a suitable representation for combining the image and audio skims for the final skims’ [citing Smith section 3.3] would suggest the claimed ‘a value representing a degree of contextual importance’” (see bottom of page 7, and top of page 6 of the

outstanding Office action). The Examiner then apparently concludes that it would be “obvious” to include Smith’s teaching as a modification of the Smith teaching.

Ignoring the Examiner’s lack of logic as to why she needs to rely on obviousness to use a Smith teaching to modify a Smith teaching, the cited material fails to discuss any teaching at all that Smith has any “importance attributes” as specified by the cited claim language. In her response to these arguments, provided by applicant in previous filed responses, the Examiner argues (in the outstanding action) that “Smith’s system must assign ‘values’ when ‘prioritizing’ to indicate high/low level of priority”, citing page 779 of Smith. But merely “prioritizing” something does not imply that it has *values* associated therewith. As discussed above, the Smith method is to take a video and shorten it into a skimmed version that is a “very short synopsis of the original” but keeps the primary important aspects of the original (see Abstract of Smith). To do this, all Smith has to do is preserve the desired important portions of the video (e.g., the “prioritized portion”) and discard the rest to create the shortened “skim” video (this solution is supported by the discussion in sections 3.1 for audio skim, where the reference states that repetition of words are limited, and repeated keywords are “discarded”; furthermore, section 3.2 discusses selecting those video frames that are “most appropriate for skimming” and presumably discarding the rest). No use of any “attribute” and no assignment of any “values” are disclosed or even necessary for such a process. Similarly, Smith could merely keep the original video, and then merely flag the “prioritized” portion, so that when a skim was desired, only the flagged portion would be used as the “skimmed” portion. Again, no “attribute” or “value” need be applied, as a mere flag would suffice.

Instead, the discussion of “priority”, as used in the Smith reference, is merely a description of how the authors determined which scenes were to be kept in the final result (i.e., the

“skimmed” video). Thus, in section 6, the authors state that if “a scene contains both faces and text, the portion containing text is used for skimming” but in contrast with “scenes with video frames containing only human-faces or text” then for “these scenes, priority is given to text”. The authors also discuss “prioritizing and ordering of the keywords and video frames” (see section 3) and that with “prioritized video frames from each scene, we now have a suitable representation for combining the image and audio skims for the final skim” (see section 3.3). Accordingly, the authors are merely describing how they choose to preserve various scenes and audio portions for including in the final skimmed version, and how they then chose to assemble them together in that final skimmed version. No teaching of a value is provided, and no such value is necessary, to perform such a method.

Furthermore, even if, assuming *arguendo*, one accepts that Smith’s prioritizing a scene implies providing a “value” to that scene (though applicant does not concede this), the Examiner points to no teaching that such a value represents a “degree of contextual importance of said corresponding one of said plurality of segments”. Instead, the scheme assumed by the Examiner (but not supported by the reference), merely has a go/no-go (i.e., binary) aspect, in that a scene is either included in the skim, or it is not. There is no “degree” of importance provided by such a scheme, nor is such a degree necessary or useful.

Thus, the Smith process is clearly different than what the claims require, as there is nothing to suggest any “content description data” being provided with an attribute having a *value* representing a “degree of contextual importance” of a corresponding segment. Instead, the Smith process clearly does not require nor imply any such content (or “context”) description data having such an attribute, and thus claim 83 and 92 are patentable over the reference.

Furthermore, the Examiner fails to show how one skilled in the art would take the Smith teaching cited in section 3.3, and from that, find obvious the claimed importance attributes. Instead, no such association would be apparent to one skilled in the art. A teaching of merely prioritizing video frames would not suggest to one skilled in the art providing a value “representing a degree of contextual importance”. Merely providing a “priority” does not imply or suggest providing a “degree of contextual importance”, first because there is no teaching that the “priority” is based on any *contextual* importance (Smith merely assumes a scene is important, or it is not, as there is no suggestion of any particular “context” being utilized for such a determination), and second, because there is no teaching that such priorities have any “degree” (again, Smith merely uses a binary determination—either it goes in, or it does not—there is no “degree” there). Accordingly, the Examiner has failed to show any reason why one skilled in the art of video searching would apply her suggested modifications.

Furthermore, there is no need for Smith to assign any “value” to determine whether to include a scene in a skim or not, and Smith fails to explicitly teach any need for such a *value*. The specification of the instant application gives, as an example, the “value” being an integer ranging from 1 to 5 (see top of page 30 of the specification). This is consistent with how one skilled in the art would view the term “value”, which implies a numerical or scaled result. However, such a feature is not necessary to implement the Smith process, and it would solve no problem discussed in Smith or known in the art related to the Smith process. Instead, as discussed above, the Smith teaching works just fine without any use of “values” or any attributes. Thus, it is not at all inherent that Smith must utilize priority “values”, and thus the Examiner’s argument fails on this point as well, as Smith does not imply any values by its prioritization scheme. Accordingly,

there is no reason one skilled in the art would find using attributes having a value useful with respect to the Smith process.

Accordingly, claims 83 and 92 are patentable over Smith, as are claims 84, 86-91, 93, and 95-100, because no teaching of providing any “content [or “context”] description data” defined as “including a plurality of importance attributes each associated with a corresponding one of said plurality of segments, said importance attributes having a value representing a degree of contextual importance of said corresponding one of said plurality of segments” as found in the cited claim language has been provided. In the rejection of claims 85 and 94, the Examiner cites Yeo only for teaching data that is hierarchically arranged, and Yeo clearly fails to overcome the shortcomings of Smith discussed above, and thus claims 85 and 94 are also patentable over the combination of references for the same reasons discussed above.

C. The References Do Not Teach any “data processing apparatus” as defined by claims 83-91.

Independent claim 83 recites a “data processing apparatus for processing media content comprised of a plurality of scenes”. The Smith reference does not teach any such apparatus.

It was pointed out to the Examiner, both in personal interviews and in filed responses, that the Smith reference appears to be directed toward a university research project where many of the steps may be done manually. As discussed in the Abstract of the reference, the purpose of the reference is to disclose a method of “extract[ing] the significant audio and video information and creat[ing] a ‘skim’ video which represents a very short synopsis of the original”. The paper provides nothing more than an example of the method, without any discussion of any “data processing apparatus” or other means of implementation of the method. Thus there is no suggestion that the authors have contemplated any apparatus for performing the described method.

In the outstanding Office action of May 15, 2007, the Examiner merely makes conclusory statements that an apparatus is shown in Smith, but her references are merely to various method steps. There is nothing pointed out by the Examiner that supports any teaching of *an* apparatus, as recited in the claims. In response to prior filed arguments of applicant that the reference fails to teach any apparatus as claimed, the Examiner argues that Smith teaches ““browsing”, ‘displaying” and thus that “there *must* be an apparatus providing means for “browsing’ and means for “displaying”” (emphasis added). However, although applicant concedes that an apparatus *may* be used for such “browsing”, and that an apparatus *may* be used for such “displaying”, there is no discussion in the reference about any such apparatuses. Thus, each of these functions could be performed by a separate apparatus.

For example, there is nothing in Smith to contradict an approach to the disclosed processes that would use various different devices for each of the separate steps of the method. Just as a film movie may be captured by a plurality of cameras, edited on one or more editing machines, and then the resulting edited movie displayed using a different projector, the method of Smith could use various different devices to perform the various steps, and some of the steps may also be manually performed. In fact, Smith makes clear that his method relies on *manual* steps (stating that the “*manually* created skims in the initial stages of the experiment help test the potential visual clarity and comprehension of the skims” --see section 3.5, first sentence). Thus, the reference itself makes clear that no apparatus was used for at least some portion of the disclosed method.

Thus because, the reference does not teach “*an* apparatus” that can perform any subset of disclosed steps, the Examiner fails to make a *prima facie* case of obviousness by relying on the reference for such a teaching. Claim 83 clearly requires that the same apparatus be comprised of

the various listed elements, not different apparatuses (or manual steps) as could be the case of Smith. Accordingly, because the Smith reference cannot be used to make obvious the claimed *apparatus* as recited in claim 83, that claim is patentable over Smith. Claims 84, and 86-91, which depend on claim 83, are thus also patentable over the Smith for this reason as well.

In the rejection of claim 85, the Examiner cites Yeo only for teaching data that is hierarchically arranged, and Yeo clearly fails to overcome the shortcomings of Smith discussed above, and thus claim 85 is also patentable over the combination of references for the same reasons discussed above.

D. Claims 84, 86-91, 93, and 95-100 are patentable under 35 U.S.C. §103(a) over Smith et al. (“Video Skimming and Characterization through the Combination of Image and Language Understanding Techniques”, June 1997, pp. 775-781) and claims 85 and 94 are patentable under 35 U.S.C. §103(a) over Smith et al. in view of Yeo et al. (U.S. Pat. No. 5,821,945) for additional reasons

In addition to the reasons discussed above by nature of their dependency on their parent claims, claims 84, 86-91, 93, and 95-100 are patentable over Smith and claims 85 and 94 are patentable over Smith in combination with Yeo because the Examiner has failed to make a *prima facie* case of obviousness regarding these particular rejections as well, again failing to show why one skilled in the art would find the various teachings in the references or make the modifications. However, because these claims are patentable for the reasons discussed above for the parent claims, the particular errors in the rejections of these claims are not discussed individually as being unnecessary to overcome the rejections.

Issue 2: Claims 83-104 are not properly rejected for non-statutory obviousness-type double patenting over claims 1-13 of U.S. Pat. No. 7,134,074:

The Examiner has rejected all of outstanding claims for obviousness-type double patenting in light of patent number 7,134,074 (serial number 09/785,063), and also in light of application serial number 10/733,981. It should be noted that the '074 patent is a CIP of this application, and thus has additional disclosure that is not found in the instant application.

The Examiner has not provided a proper rejection for obviousness-type double patenting in light of the '981 application or the '074 patent. To support a rejection for non-statutory obviousness-type double patenting, the Examiner is required to make the following factual inquiries required by MPEP §804(II)(B)(1), paragraphs 3-7:

- (A) Determine the scope and content of a patent claim and the prior art relative to a claim in the application at issue;
- (B) Determine the differences between the scope and content of the patent claim and the prior art as determined in (A) and the claim in the application at issue;
- (C) Determine the level of ordinary skill in the pertinent art; and
- (D) Evaluate any objective indicia of nonobviousness.

The conclusion of obviousness-type double patenting must then be made in light of these factual determinations.

The rejection is also required to make clear the following (MPEP §804(II)(B)(1) 8th paragraph):

- (A) The differences between the inventions defined by the conflicting claims — a claim in the patent compared to a claim in the application; and
- (B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent.

It was pointed out to the Examiner in multiple filed responses that the Examiner has repeatedly failed to make the required factual inquiries, and has also failed to show the differences between the inventions defined by the conflicting claims or identify any reasons why one skilled in the art would find such differences to be obvious. In fact, the Examiner has cited no art as teaching the various elements that she has indicated are “obvious” in the outstanding action of May 15, 2007, and thus she has provided no factual arguments at all to support her rejections for obviousness-type double patenting.

Instead, the Examiner merely concludes that the differences between the claims would be “obvious” to one of ordinary skill because “the instant application represents the invention in broader scope”. But such a conclusory statement, without providing factual *evidence* that such differences between the claims were known in the art, does not meet the requirements of the MPEP or the caselaw. The Examiner must show that the differences between the claims were actually *known* in the art (e.g., cite references) or describe, with factual basis, why they would be obvious to one skilled in the art (i.e., make a logical argument based on facts known to one skilled in the art), which she completely fails to do.

The mere fact that the claims in this application may be *broader* than the claims of the ‘074 application is not sufficient to show non-statutory obviousness-type double patenting, especially when the ‘074 case is a CIP of the instant case, and thus could be directed toward different subject matter not even disclosed in this application. An applicant is not prohibited from having both a broad and narrow patent on similar material if the narrower patent is not obvious over the broader patent, especially when the narrower patent might have a later effective filing date. Instead, the Examiner wants to reject the instant claims for being obvious with respect to the ‘074 patent without providing any facts or analysis showing that the differences are, in fact, obvious.

Incredibly, the Examiner does not even bother to identify what the differences between the claims are. Similar arguments can be provided to the rejection regarding the '981 application.

Accordingly, the Examiner has not made a *prima facie* rejection for Obviousness-type double patenting, and thus the rejection must be withdrawn.

CONCLUSION

Consequently, for any or all of the reasons stated above, the applicants claims 83-100 are patentable over the references, because the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. §103(a). The references fail to teach the "content description data" (or "context description data") as defined by claims 83-100, and the references fail to teach any apparatus as specified by claims 83-91. Furthermore, the Examiner has failed to support a rejection for non-statutory, obviousness-type double patenting over U.S. Pat. No. 7,134,074 because the Examiner has failed to show that the differences between the claims of this application and that patent would be obvious to one skilled in the art.

Accordingly, the claimed invention represents a new, useful, nonobvious apparatus and/or method for processing media content, and thus applicant respectfully requests the Board of Patent Appeals and Interferences to reverse the rejection of claims 83-100 and return the case to the examiner for issuance of a notice of allowability.

If there are any additional fees resulting from this communication, please charge all un-covered fees to our Deposit Account No. 16-0820, our Order No. NGB-32161.

Respectfully submitted,

Pearne & Gordon LLP

Date: September 25, 2008

By: Robert F. Bodi /
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CLAIMS APPENDIX

Claims 1-82 (canceled)

Claim 83 (previously presented): A data processing apparatus for processing media content comprised of a plurality of scenes, said apparatus comprising:

an input unit operable to input content description data including a plurality of segments each for describing one of said plurality of scenes of media content, said content description data also including a plurality of importance attributes each associated with a corresponding one of said plurality of segments, said importance attributes having a value representing a degree of contextual importance of said corresponding one of said plurality of segments; and

an output unit operable to output at least one of said segments based on at least one of said importance attributes.

Claim 84 (previously presented): A data processing apparatus according to claim 83, wherein said content description data further includes a plurality of time attributes each associated with one of said plurality of segments for determining a start time and one of an end time and a duration of said one of said plurality of segments in relation to said media content.

Claim 85 (previously presented): The data processing apparatus according to claim 83, wherein said plurality of segments are hierarchically described.

Claim 86 (previously presented): The data processing apparatus according to claim 83, wherein said content description data further includes supplemental information.

Claim 87 (previously presented): The data processing apparatus according to claim 83, wherein the media content corresponds to video data and/or audio data.

Claim 88 (previously presented): The data processing apparatus according to claim 83, wherein said context description data further includes linkage information for linking to dominant data that represents at least one of said segments.

Claim 89 (previously presented): The data processing apparatus according to claim 88, wherein said dominant data is one or more of text data, image data and audio data.

Claim 90 (previously presented): The data processing apparatus according to claim 83, wherein said context description data is previously generated outside of said data processing apparatus prior to said inputting.

Claim 91 (previously presented): The data processing apparatus according to claim 83, wherein said outputting is in response to a user query regarding the context.

Claim 92 (previously presented): A data processing method for processing media content comprised of a plurality of scenes, said method comprising the steps of:

inputting content description data including a plurality of segments each for describing one of said plurality of scenes of media content, said content description data also including a plurality of importance attributes each associated with a corresponding one of said plurality of segments, said plurality of importance attributes having a value representing a degree of contextual importance of said corresponding one of said plurality of segments; and

outputting at least one of said segments based on at least one of said importance attributes.

Claim 93 (previously presented): A data processing method according to claim 92, wherein said content description data further includes a plurality of time attributes each associated with one of said plurality of segments for determining a start time and one of an end time and a duration of said one of said plurality of segments in relation to said media content.

Claim 94 (previously presented): The data processing method according to claim 92, wherein said plurality of segments are hierarchically described.

Claim 95 (previously presented): The data processing method according to claim 92, wherein said content description data includes supplemental information.

Claim 96 (previously presented): The data processing method according to claim 92, wherein the media content corresponds to video data and/or audio data.

Claim 97 (previously presented): The data processing method according to claim 92, wherein said context description data further includes linkage information for linking to dominant data that represents at least one of said plurality of segments.

Claim 98 (previously presented): The data processing method according to claim 97, wherein said dominant data is one or more of text data, image data and audio data.

Claim 99 (previously presented): The data processing method according to claim 92, wherein said context description data is previously generated prior said inputting.

Claim 100 (previously presented): The data processing method according to claim 92, wherein said outputting is in response to a user query regarding the context.

Claim 101 (previously presented): A data processing apparatus comprising:

input means for inputting hierarchically arranged context description data that describes a plurality of scenes of the media contents of one or more media files, said context description data including:

a plurality of segment elements each for describing one of said plurality of scenes,

a plurality of section elements each having either one or more of said plurality of section elements as children, or having one or more of said plurality of segment elements as children,

a plurality of context attributes each having a value for describing a corresponding context of said media content and each being an attribute associated with one or more of said segment elements and including at least one keyword for describing the contents of the scenes described by the associated one or more of said segment elements,

a plurality of importance attributes each associated with a corresponding one of said segment elements and having a value representing a degree of importance of the scene corresponding to said corresponding segment element

in relation to one context attribute that is also associated with corresponding segment element, and

a plurality of time attributes each associated with one of said plurality of segments for determining a start time and one of an end time and a duration of said one of said plurality of segments in relation to the media content;

and

selection means for selecting one or more of said segment elements based on an analysis of one or more of said context attributes and the associated importance attributes, wherein

one or more of said plurality of scenes is selected based on the selected segment elements and the segment element(s)' start time attribute(s) and the end time or duration attribute(s).

Claim 102 (previously presented): The apparatus of claim 101, wherein said section elements are each associated with some corresponding portion of said media contents, and wherein said context description data further includes:

another plurality of context attributes each having a value for describing a corresponding context of said media content and each being an attribute associated with one or more of said section elements and including at least one keyword for describing the contents of the corresponding portion described by the associated one or more of said section elements, and

another plurality of importance attributes each associated with a corresponding one of said section elements and having a value representing a degree of importance of the portion corresponding to said corresponding section element in relation to one of the another context attributes that is also associated with the corresponding section element.

Claim 103 (previously presented): The apparatus of claim 102, wherein each segment element can be a child of only one section element, and wherein each section element can be a child of only one other section element, and further wherein when a child of any of said section elements includes a segment, that section element can only have additional segment elements as children.

Claim 104 (previously presented): The apparatus of claim 103, wherein a given section element describes that portion of the media contents that is described by the compilation of the children elements of said given section element.

EVIDENTIARY APPENDIX

A. Contents of Program03.xml found on the CDROM filed in this application:

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  </segment>
</section>
<section priority="2">
  <segment start="smpte=00:05:02:07" end="smpte=00:05:04:16" priority="2">
    <dominant-data start="smpte=00:05:03:02" end="smpte=00:05:02:20"/>
  </segment>
</section>
<section priority="4">
  <segment start="smpte=00:05:04:17" end="smpte=00:05:13:25" priority="4">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp21.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma21.mp3"/>
  </segment>
  <segment start="smpte=00:05:13:26" end="smpte=00:05:17:01" priority="4">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp22.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma22.mp3"/>
  </segment>
  <segment start="smpte=00:05:17:02" end="smpte=00:05:23:21" priority="3">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp23.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma23.mp3"/>
  </segment>
  <segment start="smpte=00:05:23:22" end="smpte=00:05:44:15" priority="4">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp24.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma24.mp3"/>
  </segment>

```

```

<segment start="smpte=00:05:44:16" end="smpte=00:05:50:27" priority="4">

<dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp25.gif"/>
<dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma25.mp3"/>
</segment>
<segment start="smpte=00:05:50:28" end="smpte=00:06:08:15" priority="4">
<dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp26.gif"/>
<dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma26.mp3"/>
</segment>
<segment start="smpte=00:06:08:16" end="smpte=00:06:18:05" priority="4">
<dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp27.gif"/>
<dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma27.mp3"/>
</segment>
<segment start="smpte=00:06:18:06" end="smpte=00:06:24:04" priority="4">
<dominant-data start="smpte=00:06:18:25" end="smpte=00:06:20:17"/>
</segment>
<segment start="smpte=00:06:24:05" end="smpte=00:06:41:04" priority="4">
<dominant-data start="smpte=00:06:25:01" end="smpte=00:06:30:11"/>
</segment>
</section>
</section>
<section caption="SUMO WRESTLER 2 VS. SUMO WRESTLER 3" priority="4">
<section priority="4">
<segment start="smpte=00:06:18:05" end="smpte=00:07:00:24" priority="4">
<dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp28.gif"/>
<dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma28.mp3"/>
</segment>
</section>
<section priority="3">
<segment start="smpte=00:07:00:25" end="smpte=00:07:15:21" priority="3">
<dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp29.gif"/>
<dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma29.mp3"/>
</segment>

```

```
</section>
<section priority="2">
  <segment start="smpte=00:07:15:22" end="smpte=00:07:39:26" priority="1">
    <dominant-data start="smpte=00:07:16:05" end="smpte=00:07:18:23"/>
  </segment>
  <segment start="smpte=00:07:39:27" end="smpte=00:07:46:02" priority="2">
    <dominant-data start="smpte=00:07:41:28" end="smpte=00:07:43:01"/>
  </segment>
  <segment start="smpte=00:07:46:03" end="smpte=00:07:53:17" priority="2">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp30.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma30.mp3"/>
  </segment>
  <segment start="smpte=00:07:53:18" end="smpte=00:08:01:21" priority="2">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp31.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma31.mp3"/>
  </segment>
  <segment start="smpte=00:08:01:22" end="smpte=00:08:18:02" priority="2">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp32.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma32.mp3"/>
  </segment>
  <segment start="smpte=00:08:18:03" end="smpte=00:08:39:05" priority="2">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp33.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma33.mp3"/>

</segment>
<segment start="smpte=00:08:39:06" end="smpte=00:08:47:06" priority="2">
  <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp34.gif"/>
  <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma34.mp3"/>
</segment>
<segment start="smpte=00:08:47:07" end="smpte=00:09:03:27" priority="2">
  <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp35.gif"/>
  <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma35.mp3"/>
</segment>
<segment start="smpte=00:09:03:28" end="smpte=00:09:07:20" priority="2">
  <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp36.gif"/>
```

```
<dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma36.mp3"/>
</segment>
</section>
<section priority="3">
  <segment start="smpte=00:09:07:21" end="smpte=00:09:16:26" priority="3">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp37.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma37.mp3"/>
  </segment>
  <segment start="smpte=00:09:16:27" end="smpte=00:09:20:25" priority="3">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp38.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma38.mp3"/>
  </segment>
</section>
<section priority="4">
  <segment start="smpte=00:09:20:26" end="smpte=00:09:22:27" priority="4">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp39.gif"/>
```

```
<dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma39.mp3"/>
</segment>
</section>
<section priority="5">
  <segment start="smpte=00:09:22:28" end="smpte=00:09:48:11" priority="5">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp40.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma40.mp3"/>
  </segment>
</section>
<section priority="4">
  <segment start="smpte=00:09:48:12" end="smpte=00:09:51:27" priority="4">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp41.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma41.mp3"/>
  </segment>
</section>
<section priority="3">
  <segment start="smpte=00:09:51:28" end="smpte=00:09:57:01" priority="3">
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp42.gif"/>
    <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma42.mp3"/>
  </segment>
```

```
    <segment start="smpte=00:09:57:02" end="smpte=00:10:12:21" priority="3">
        <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp43.gif"/>
        <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma43.mp3"/>
    </segment>
</section>
<section priority="4">
    <segment start="smpte=00:10:12:22" end="smpte=00:10:41:17" priority="4">
        <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp44.gif"/>
        <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma44.

mp3"/>
    </segment>
</section>
<section priority="3">
    <segment start="smpte=00:10:41:18" end="smpte=00:11:28:17" priority="3">
        <dominant-data locator="http://mserv.trl.mei.co.jp/DMV/dmp45.gif"/>
        <dominant-data locator="http://mserv.trl.mei.co.jp/DMA/dma45.mp3"/>
    </segment>
</section>
<section priority="1">
    <segment start="smpte=00:11:28:18" end="smpte=00:11:41:29" priority="1">
        <dominant-data start="smpte=00:11:29:13" end="smpte=11:32:21"/>
    </segment>
</section>
</section>
</contents>
```

B(1). Contents of Program07.xml found on the CDROM filed in this application:

```
<?xml version="1.0" encoding="euc-jp"?>
<!DOCTYPE contents SYSTEM "program07.dtd">

<contents contents-id="urn:upi:mei:12345" title="GRAND SUMO TOURNAMENT"
  " runtime="11:42">
  <mediobject id="mobj-01">
    <section caption="SUMO WRESTLER 0 VS. SUMO WRESTLER 1" priority="5">
      <section priority="1">
        <segment start="smpte=00:00:00:00" end="smpte=00:00:04:17" priority="1"/>
        <segment start="smpte=00:00:04:18" end="smpte=00:00:09:08" priority="1"/>
      </section>
      <section priority="2">
        <segment start="smpte=00:00:09:09" end="smpte=00:00:14:13" priority="2"/>
      </section>
      <section priority="3">
        <segment start="smpte=00:00:14:14" end="smpte=00:00:19:
          " priority="3"/>
        <section priority="1">
          <segment start="smpte=00:00:19:20" end="smpte=00:00:22:19" priority="1"/>
        </section>
        <section priority="3">
          <segment start="smpte=00:00:22:20" end="smpte=00:00:28:10" priority="3"/>
          <segment start="smpte=00:00:28:11" end="smpte=00:00:30:28" priority="3"/>
          <segment start="smpte=00:00:30:29" end="smpte=00:00:43:11" priority="3"/>
        </section>
        <section priority="2">
          <segment start="smpte=00:00:43:12" end="smpte=00:00:46:20" priority="2"/>
        </section>
      <section priority="3">
```

```
    <segment start="smpte=00:00:46:21" end="smpte=00:00:57:09" priority="3"/>
    </section>
    <section priority="2">
        <segment start="smpte=00:00:57:10" end="smpte=00:01:00:28" priority="2"/>
        </section>
        <section priority="4">
            <segment start="smpte=00:01:00:29" end="smpte=00:01:14:14" priority="4"/>
            </section>
            <section priority="2">
                <segment start="smpte=00:01:14:15" end="smpte=00:01:24:20" priority="2"/>
                </section>
                <section priority="3">
                    <segment start="smpte=00:01:24:21" end="smpte=00:01:39:26" priority="3"/>
                    </section>
                    <section priority="2">
                        <segment start="smpte=00:01:39:27" end="smpte=00:01:52:09" priority="2"/>
                        <segment start="smpte=00:01:52:10" end="smpte=00:02:02:16" priority="2"/>
                        <segment start="smpte=00:02:02:17" end="smpte=00:02:31:09" priority="2"/>
                    </section>
                </section>
            </section>
        </section>
    </section>

```

```
    <segment start="smpte=00:02:31:10" end="smpte=00:02:47:18" priority="3"/>
    </section>
    <section priority="1">
        <segment start="smpte=00:02:47:19" end="smpte=00:02:59:03" priority="1"/>
        <segment start="smpte=00:02:59:04" end="smpte=00:03:07:14" priority="1"/>
        </section>
        <section priority="2">
            <segment start="smpte=00:03:07:15" end="smpte=00:03:13:28" priority="2"/>
            <segment start="smpte=00:03:13:29" end="smpte=00:03:21:28" priority="2"/>
            <segment start="smpte=00:03:21:29" end="smpte=00:03:33:15" priority="2"/>
        </section>
    </section>

```

```

<segment start="smpte=00:03:33:16" end="smpte=00:03:47:00" priority="2"/>
  <segment start="smpte=00:03:47:01" end="smpte=00:03:58:14" priority="2"/>
    <segment start="smpte=00:03:58:15" end="smpte=00:04:12:27" priority="2"/>
    </section>
  <section priority="3">
    <segment start="smpte=00:04:12:28" end="smpte=00:04:20:01" priority="3"/>
  </section>
  <section priority="4">
    <segment start="smpte=00:04:20:02" end="smpte=00:04:31:05" priority="4"/>
      <segment start="smpte=00:04:31:06" end="smpte=00:04:34:28" priority="4"/>
      <segment start="smpte=00:04:34:29" end="smpte=00:04:37:06" priority="4"/>
    </section>
    <section priority="5">
      <segment start="smpte=00:04:37:07" end="smpte=00:04:57:05" priority="5"/>
    </section>
    <section priority="5">
      <segment start="smpte=00:04:57:06" end="smpte=00:05:00:02" priority="5"/>
      <segment start="smpte=00:05:00:03" end="smpte=00:05:02:06" priority="4"/>
    </section>

<section priority="2">
  <segment start="smpte=00:05:02:07" end="smpte=00:05:04:16" priority="2"/>
</section>
<section priority="4">
  <segment start="smpte=00:05:04:17" end="smpte=00:05:13:25" priority="4"/>
    <segment start="smpte=00:05:13:26" end="smpte=00:05:17:01" priority="4"/>
    <segment start="smpte=00:05:17:02" end="smpte=00:05:23:21" priority="3"/>
    <segment start="smpte=00:05:23:22" end="smpte=00:05:44:15" priority="4"/>

```

```
    <segment start="smpte=00:05:44:16" end="smpte=00:05:50:27" priority="4"/>
        <segment start="smpte=00:05:50:28" end="smpte=00:06:08:15" priority="4"/>
            <segment start="smpte=00:06:08:16" end="smpte=00:06:18:05" priority="4"/>
                <segment start="smpte=00:06:18:06" end="smpte=00:06:24:04" priority="4"/>
                    <segment start="smpte=00:06:24:05" end="smpte=00:06:41:04" priority="4"/>
                </section>
            </section>
        </mediaobject>
    <mediaobject id="mobj-02">
        <section caption="SUMO WRESTLER 2 VS. SUMO WRESTLER 3" priority="4">
            <section priority="4">
                <segment start="smpte=00:00:00:00" end="smpte=00:00:42:24" priority="4"/>
            </section>
            <section priority="3">
                <segment start="smpte=00:00:42:25" end="smpte=00:00:57:21" priority="3"/>
            </section>
            <section priority="2">
                <segment start="smpte=00:00:57:22" end="smpte=00:01:21:26" priority="1"/>
                <segment start="smpte=00:01:21:27" end="smpte=00:01:28:02" priority="2"/>
                <segment start="smpte=00:01:28:03" end="smpte=00:01:35:17" priority="2"/>
            <segment start="smpte=00:01:35:18" end="smpte=00:01:43:21
                " priority="2"/>
                <segment start="smpte=00:01:43:22" end="smpte=00:02:00:02" priority="2"/>
                <segment start="smpte=00:02:00:03" end="smpte=00:02:21:05" priority="2"/>
                <segment start="smpte=00:02:21:06" end="smpte=00:02:29:06" priority="2"/>
                <segment start="smpte=00:02:29:07" end="smpte=00:02:45:27" priority="2"/>
                <segment start="smpte=00:02:45:28" end="smpte=00:02:49:20" priority="2"/>
```

```
</section>
<section priority="3">
  <segment start="smpte=00:02:49:21" end="smpte=00:02:58:26" priority="3"/>
  <segment start="smpte=00:02:58:27" end="smpte=00:03:02:25" priority="3"/>
</section>
<section priority="4">
  <segment start="smpte=00:03:02:26" end="smpte=00:03:04:27" priority="4"/>
</section>
<section priority="5">
  <segment start="smpte=00:03:04:28" end="smpte=00:03:30:11" priority="5"/>
</section>
<section priority="4">
  <segment start="smpte=00:03:30:12" end="smpte=00:03:33:27" priority="4"/>
</section>
<section priority="3">
  <segment start="smpte=00:03:33:28" end="smpte=00:03:39:01" priority="3"/>
  <segment start="smpte=00:03:39:02" end="smpte=00:03:54:21" priority="3"/>
</section>
<section priority="4">
  <segment start="smpte=00:03:54:22" end="smpte=00:04:23:17" priority="4"/>
</section>
<section priority="3">
  <segment start="smpte=00:04:23:18" end="smpte=00:05:10:17" priority="3"/>
</section>
<section priority="1">

<segment start="smpte=00:05:10:18" end="smpte=00:05:23:29" priority="1"/>
</section>
</section>
</mediaobject>
</contents>
```

B(2). Contents of Program07.out found on the CDROM filed in this application:

```
id="mobj-01" start="smpte=00:01:00:29" end="smpte=00:01:14:14"  
id="mobj-01" start="smpte=00:04:20:02" end="smpte=00:05:02:06"  
id="mobj-01" start="smpte=00:05:04:17" end="smpte=00:06:41:04"  
id="mobj-02" start="smpte=00:00:00:00" end="smpte=00:00:42:24"  
id="mobj-02" start="smpte=00:03:02:26" end="smpte=00:03:33:27"  
id="mobj-02" start="smpte=00:03:54:22" end="smpte=00:04:23:17"
```

Related Proceedings Appendix

Application serial number 10/733,981, a child of this application, is currently being appealed. A notice of appeal was filed on June 19, 2007, and an appeal brief was filed on December 19, 2007. This brief of the related case is of record in that case and is available for review, but no decision has been made by the Board in that case.